

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

**FEDERATED SERVICE INSURANCE
COMPANY, a Minnesota Corporation,**

Plaintiff,

vs.

06-CV-638 JAP/WDS

DANNY MARTINEZ,

Defendant.

**MEMORANDUM OPINION AND ORDER
ON MARTINEZ’S MOTION TO FILE SUPPLEMENTAL BRIEF**

On November 5, 2010, Defendant Danny Martinez (“Martinez”) filed Martinez’ Motion For Leave To File A Supplemental Brief In Support Of His 2007 Motion For Summary Judgment On UM/UIM Coverage (Doc. No. 79) (“Motion”). On December 1, 2010, Plaintiff Federated Service Insurance Company (“Federated”) filed Plaintiff Federated Service Insurance Company’s Response In Opposition To Mr. Martinez’s Motion For Reconsideration Of The Orders Entered 10/20/10 And Motion For Leave To File A Supplemental Brief In Support Of His 2007 Motion For Summary Judgment On UM/UIM Coverage (Doc. No. 89) (“Response”).¹ On December 20, 2010, Martinez filed Martinez’ Reply Brief In Support Of His Motion For Leave To File A Supplemental Brief (Doc. No. 95) (“Reply”). In the Motion, Martinez argues that because Federated has presented new arguments in its motion for summary judgment filed September 9, 2010 that were not addressed in its first motion for summary judgment filed May

¹ Federated’s arguments in response to Martinez Motion For Reconsideration will be addressed in a separate Memorandum Opinion and Order.

25, 2007, Martinez should be allowed to address Federated's new arguments in a supplemental brief in support of Martinez's 2007 motion for summary judgment.²

Martinez's 2007 motion for summary judgment was fully briefed and decided on a separate legal issue that is not addressed in Federated's September 9, 2010 motion for summary judgment. The Court, therefore, will deny the Motion as it relates to Martinez's 2007 motion for summary judgment. The Court notes that Martinez has already filed a response (Doc. No. 80) in opposition to Federated's September 9, 2010 motion for summary judgment. Nevertheless, out of an abundance of caution and a desire to hear all arguments on the merits, the Court will allow Martinez to present any additional arguments he wishes to make in a supplemental brief in support of Martinez's response (Doc. No. 80) to Federated's September 9, 2010 motion for summary judgment. In addition, the Court will *sua sponte* grant Federated leave to file, if it deems necessary, a supplemental brief addressing any new arguments raised in Martinez's supplemental brief.

IT IS ORDERED THAT the Motion is denied as it relates to Martinez's 2007 motion for summary judgment and is granted to the extent that Defendant Danny Martinez may file by January 31, 2011 a supplemental brief in support of his response (Doc. No. 80) to Federated's September 9, 2010 motion for summary judgment, and Federated is granted leave to file a supplemental reply brief within ten days after Martinez files his supplemental brief.



SENIOR UNITED STATES DISTRICT JUDGE

² On May 25, 2007 both Federated and Martinez filed motions for summary judgment. See Doc. Nos. 24, 25, 26, and 27.